

### **REMARKS**

Claims 11-15 and 17-21 are pending in this application. Claim 11 has been amended. Claim 16 has been canceled. Support for the new language contained in claim 11 can be found at page 6, paragraphs 3 to 5. No new matter has been added. In view of the foregoing amendment and following remarks, Applicants believe that the asserted rejections should be withdrawn and that all pending claims 11-15 and 17-21 are in condition for allowance.

The Examiner is requiring that the abstract of the disclosure be amended to use proper language and to be properly formatted. The abstract has been amended accordingly.

### **34 U.S.C. § 112 Rejections**

Claims 11-21 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner asserts that the language in claim 1, which defines formulas by which ionic surfactants may be represented, is unclear and that it is difficult to determine which surfactants are being claimed because the specification does not recite specific compounds or tradenames. The Examiner further asserts that the specification recites that certain surfactants may precipitate in the presence of carbon dioxide, but particular compounds are not identified from those grouped in generic formulas, making it unclear which species would have those properties. The Examiner suggests that a list of surfactant types which can be used in the instant methods be recited, such as those disclosed in the instant examples, and directs Applicants' attention to U.S. Patent No. 6,200,352 to Romack et al., column 3, lines 48-67.

Claim 11 has been amended to recite a clear definition of the surfactants which may be used in the methods of the present invention. Applicants respectfully point out that the examples provided in the specification of the application expressly indicate that the benefits of

the present invention can be realized across the entire range of surfactants recited in amended claim 11, e.g., alkylamines, dialkylamine, stearate, alkylsulfates and N-layroyl-L-lysine. Furthermore, it would be practically impossible to actually demonstrate the benefits of using each of the surfactant compounds encompassed by the formula recited in amended claim 11. Therefore, Applicants submit that, because the examples clearly state that the entire range of compounds encompassed by the formula recited in amended claim 11 can be used in the methods of the present invention, claim 11 is more than adequately enabled. Applicants further submit that restriction of the claims to specific compounds or tradenames is therefore not necessary to enable one skilled in the art to practice the methods of the claimed invention, as the surfactants are clearly identified and it is evident that other surfactants, besides those described in the examples, also can be used with beneficial results in the methods of the claimed invention.

Claims 11-21 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner asserts that it is unclear how to interpret what “optionally heterogeneous” encompasses. Claim 11 has been amended to delete the term “optionally” and claim 16 has been canceled, thus obviating this rejection.

### **35 U.S.C. § 103 Rejection**

Claims 11-21 stand rejected under 35 U.S.C. § 103(a) as being obvious over Romack et al. in view of the Octadecylamine document. The Examiner asserts, in pertinent part, that Romack et al. teach methods of dry cleaning fabrics by contacting articles with liquid/vapor dry cleaning compositions in a closed drum, agitating the drum for a sufficient time, removing the cleaning composition from the drum, rinsing the fabric in liquid carbon dioxide without additional ingredients or with a co-solvent and/or water, agitating the article in the rinse solution and removing the rinse solution and fabric from the drum. The Examiner refers Applicants to

column 5, lines 21-24 of the Romack et al. reference, where ARMEEN® primary alkyamines are mentioned in an extremely long list of surfactants which begins at column 4, line 16 and ends at column 5, line 50. Although the Examiner acknowledges that Romack et al. are silent as to the specific alkylamine surfactants used and the percentage of undissolved surfactant present during the methods of dry cleaning, the Examiner asserts that the Octadecylamine reference teaches ARMEEN® 118D and 18D (octadecylamine surfactants), and thus argues that it would be obvious to one skilled in the art to choose the surfactant octadecylamine, especially because the product sheet of Octadecylamine states that octadecylamine reacts with carbon dioxide. Additionally, the Examiner alleges that “regarding the claimed property of at least 10 or 30% undissolved solid surfactant... one of ordinary skill in the art would expect the octadecylamine in the prior art compositions to precipitate out in similar percentages to the instantly claimed values because the prior art teaches dry cleaning methods comprising similar cleaning compositions and similar treatment steps.”

Applicants respectfully traverse these rejections and request that the rejections be reconsidered and withdrawn.

When making a rejection under 35 U.S.C. § 103, the Examiner has the burden of establishing a *prima facie* case of obviousness. In re Fritch, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The Examiner can satisfy this burden only by showing an objective teaching in the prior art, or knowledge generally available to one of ordinary skill in the art, which would lead an individual to combine the relevant teachings of the references (and/or the knowledge) in the manner suggested by the Examiner. *Id.*; In re Fine, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

The mere fact that the prior art could be modified does not make the modification obvious *unless the prior art suggests the desirability of the modification* (emphasis added). In re

Fritch, 23 U.S.P.Q.2d at 1784; In re Laskowski, 10 U.S.P.Q.2d 1397, 1398 (Fed. Cir. 1989); In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

“The ultimate determination of patentability must be based on consideration of the entire record, by a preponderance of evidence, with due consideration to the persuasiveness of any arguments and any secondary evidence.” Manual of Patent Examining Procedure, (Rev. 1, Feb. 2003) § 716.01(d) and In re Oetiker, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992).

Applicants respectfully submit that the Examiner’s reasoning can only be made with the benefit of hindsight, because Romack et al. clearly fail to provide any incentive to (i) select ARMEEN® primary alkyamines and to use it (ii) in a concentration and (iii) under dry cleaning conditions that in combination will produce a fluid dry cleaning composition in which at least 10% of the surfactant is undissolved.

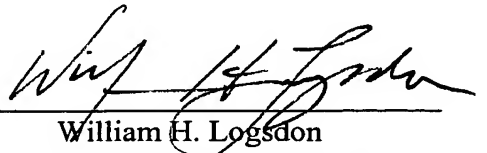
Moreover, Applicants point out that one skilled in the art would not be motivated to combine the teachings of Romack et al. and the Octadecylamine reference. This is because neither Romack et al. nor the Octadecylamine reference suggests the benefits gained from utilizing a carbon dioxide-based dry cleaning fluid which contains an ionic surfactant of which at least 10% of the ionic surfactant is present in a non-dissolved form, as claimed in the present invention. As explained at page 13, examples 6 through 9 of the instant specification, increasing the amount of non-dissolved surfactant greatly improves the cleaning performance, a finding that one of ordinary skill in the art would find remarkable. Therefore, Applicants submit that the unexpected results of the claimed invention renders the claimed invention nonobvious to one skilled in the art.

Since a *prima facie* case of obviousness of claims 11-21 has not been established, Applicants respectfully request that this rejection be reconsidered and withdrawn.

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In view of the foregoing amendment and remarks, it is respectfully submitted that all pending claims 11-15 and 17-21 in the present application comply with the requirements of Sec. 112 and are distinguishable from the cited prior art. Accordingly, reconsideration and withdrawal of the rejection and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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